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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,958	11/19/2001	Naoki Oguchi	FUJZ 19,185	9665
26304 7590 03/16/2009 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585				
EXAMINER				
LEE, ANDREW CHUNG CHEUNG				
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2419				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/988,958

**Applicant(s)**

OGUCHI ET AL.

**Examiner**

Andrew C. Lee

**Art Unit**

2419

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Claims 5 – 13 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5, 9, 6, 10, 11, 7, 12, 8, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamieson et al. (US 7039687 B1) in view of Nurenberg et al. (US 6181697 B1).

**Regarding claims 5, 9,** Jamieson et al. disclose a virtual private network construction system for a public data communication network ("*VNP may be formed by connecting two, four or more networks across the shared network*" interpreted as a *virtual private network construction system for a public data communication network*; *Abstract, Fig. 1, col. 3, lines 20 – 27*) comprising: whereby the virtual private network is constructed with the virtual relaying structures that are specific to a same multicast address in the first and the second relaying apparatuses, with the unicast virtual links establish between all pairs of the virtual relaying structures and with virtual interfaces receiving packets from outside the public data communication network ("*multicast*", "*unicast*"; *Fig. 1, Fig. 3, col. 2, lines 31 – 45, col. 3, lines 55 – 67, col. 4, lines 1 – 4, col. 5, lines 13 – 42, 54 – 64*). Jamieson et al. also disclose implicitly first relaying

apparatuses with virtual relaying structure generating and multicasting control packets each of which is destined to a multicast address assigned to the virtual relaying structure and contains a unicast address specific to the virtual relaying structure (*"element A 10, Private Network Adaptation Devices " interpreted as first relaying apparatuses with virtual relaying structure, "hello, Link state Advertisement..", and used by all other PNADs for unicast transmission"; Fig. 1, col. 3, lines 59 – 67, col. 4, lines 1 – 6, col. 5, lines 13 – 42*), second relaying apparatuses with virtual relaying structure, which receives the control packets from the first relaying apparatuses with the multicast address as destined for the virtual relay structure (*"element B 10, Private Network Adaptation Devices", and "interconnected using bi-directional multipoint-to-multipoint LSP"; Fig. 1, col. 3, lines 55 – 67, col. 4, lines 1 – 6*), establishing unicast virtual links using the unicast address in the control packets with the first relaying apparatuses which are the transmitting sources of the control packets and returning reply packets to the first relaying apparatuses through the unicast virtual links (*"used by all other PNADs for unicast transmission"; col. 3, lines 55 – 59, col. 5, lines 13 - 42*).

Jamieson et al. do not disclose explicitly first relaying apparatuses with virtual relaying structure generating and multicasting control packets each of which is destined to a multicast address assigned to the virtual relaying structure and contains a unicast address specific to the virtual relaying structure, and second relaying apparatuses with virtual relaying structure, which receives the control packets from the first relaying apparatuses with the multicast address as destined for the virtual relaying structure, establishing unicast virtual links using the unicast address in the control packets with

the first relaying apparatuses which are transmitting sources of the control packets returning reply packets to the first relaying apparatuses through the unicast virtual links.

Nurenberg et al. teach first relaying apparatuses with virtual relaying structure generating and multicasting control packets each of which is destined to a multicast address assigned to the virtual relaying structure ("*element 120, Multicast-Unicast Server*" interpreted as first relaying apparatus; Fig.1, col. 3, lines 29 – 45, lines 66 – 67, col. 4, lines 1 – 6) and contains a unicast address specific to the virtual relaying structure ("*unicast IP endpoint address*"; col. 4, lines 6 – 11), and second relaying apparatuses with virtual relaying structure, which receives the control packets from the first relaying apparatuses with the multicast address as destined for the virtual relaying structure, establishing unicast virtual links using the unicast address in the control packets with the first relaying apparatuses which are transmitting sources of the control packets and returning reply packets to the first relaying apparatuses through the unicast virtual links ("*element 121, Multicast-Unicast Server*" interpreted as second relaying apparatus; Fig. 1, Fig.1, col. 3, lines 29 – 45, lines 66 – 67, col. 4, lines 1 – 28).

At time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the teachings of Jamieson et al. to include the features of first relaying apparatuses with virtual relaying structure generating and multicasting control packets each of which is destined to a multicast address assigned to the virtual relaying structure and contains a unicast address specific to the virtual relaying structure, and second relaying apparatuses with virtual relaying structure, which receives the control packets from the first relaying apparatuses with the multicast

address as destined for the virtual relaying structure., establishing unicast virtual links using the unicast address in the control packets with the first relaying apparatuses which are transmitting sources of the control packets returning reply packets to the first relaying apparatuses through the unicast virtual links as taught by Nurenberg et al. One of ordinary skill in the art would be motivated to do so for providing an endpoint client on a Unicast network with the ability to access a Multicast session on an Multicast network and re-Multicast that session to other endpoint clients (*as suggested by Nurenberg et al., see col. 1, lines 19 – 22*).

**Regarding claims 6, 10,** Jamieson et al. disclose the virtual private network construction method, system, apparatus claimed wherein the second relaying apparatuses stashing the unicast virtual links authenticate the control packets received (*col. 5, lines 36 - 42*).

**Regarding claim 11,** Jamieson et al. disclose the relaying apparatus as claimed further comprising means for generating a routing table for each of a plurality of virtual networks logically independent of one another ("*forwarding table*" *interpreted as a routing table for each of a plurality of virtual networks logically independent of one another*; *col. 5, lines 47 – 53*), and means for performing a packet relay of each virtual network based on the routing table (*col. 5, lines 54 – 56*).

**Regarding claims 7, 12,** Jamieson et al. disclose the virtual private network construction method, system, apparatus claimed wherein the virtual links comprise IP tunnels ("*internet protocol (IP) tunneling*"; *col. 1, lines 36 – 39*).

Regarding claims 8, 13, Jamieson et al. disclose a virtual private network construction method, system, apparatus wherein the unicast virtual links comprise MPLS tunnels (*"multipoint-to-point LSPs used by all other PNADs for unicast transmission; col. 3, lines 55 – 61*).

### ***Response to Arguments***

4. Applicant's arguments filed on 1/05/2009 with respect to claims 5 – 13 have been fully considered but they are not persuasive.

***Regarding claims 5 and 9***, applicant argues references Jamieson et al. and Nurenberg et al. do not teach or suggest, however, control packets that are destined to a multicast address assigned to a virtual relaying structure and multicast by the first relaying apparatuses, as recited in claims 5 and 9. Examiner respectfully disagrees.

Examiner contends the combined system of references Jamieson et al. and Nurenberg et al. disclose control packets that are destined to a multicast address assigned to a virtual relaying structure and multicast by the first relaying apparatuses. Examiner interpreted control packets as hello packets, link state advertisement and Address resolution protocol, *see Jamieson et al. col. 3, lines 55 – 67, col. 4, lines 1 – 6, see also col.5, lines 13 – 42.*

Applicant then argues the combined system of references Jamieson et al. and Nurenberg et al. do not teach or suggest, however, "second relaying apparatuses with virtual relaying structure...with the multicast address as destined for the virtual relaying

structure...returning reply packets...through the unicast virtual links," as recited in claims 5 and 9. (Emphasis added). Examiner respectfully disagrees.

Examiner contends the combined system of references Jamieson et al. and Nurenberg et al. teach "second relaying apparatuses with virtual relaying structure... with the multicast address as destined for the virtual relaying structure...returning reply packets...through the unicast virtual links,"

Examiner interpreted "second relaying apparatuses with virtual relaying structure" as element B 10, Private Network Adaptation Devices, *see Jamieson et al. Fig. 1, Fig. 3, col. 3, lines 55 – 67*, and interpreted "which receives the control packets from the first relaying apparatuses with the multicast address as destined for the virtual relay structure " as interconnected using bi-directional multipoint-to-multipoint LSP, used for sending multicast datagrams"; *see Jamieson et al. Fig. 1, col. 3, lines 55 – 67, col. 4, lines 1 – 6, and interpreted "establishing unicast virtual links using the unicast address in the control packets with the first relaying apparatuses which are the transmitting sources of the control packets and returning reply packets to the first relaying apparatuses through the unicast virtual links" as used by all other PNADs for unicast transmission, and "point-to-point link, see Jamieson et al., col. 3, lines 55 – 59, col. 5, lines 13 - 42*. Reference Jamieson et al. do not disclose explicitly the limitations of multicast address and unicast address. Reference Nurenberg et al. remedy Jamieson deficiencies by disclosing the multicast address and unicast address as well as unicast and multicast network structure.



Applicant also argues reference Jamieson et al. fail to teach or suggest, however, a virtual private network constructed with the virtual relaying structures which are specific to same multicast address in the first and the second relaying apparatuses. Jamieson et al. merely describe distribution of VPN information for establishing multiple label switched paths therebetween. Examiner respectfully disagrees.

Examiner contends reference Jamieson et al. suggest a virtual private network constructed with the virtual relaying structures which are specific to same multicast address in the first and the second relaying apparatuses. Examiner interpreted "a virtual private network constructed with the virtual relaying structures which are specific to same multicast address in the first and the second relaying apparatuses" as all PNADs of a VPN subnet may also be interconnected using a bi-directional, multipoint-to-multipoint LSP. This could be used for sending multicast datagrams, *see Jamieson et al., Fig. 1, Fig. 3, col. 2, lines 31 – 45, col. 3, lines 55 – 67, col. 4, lines 1 – 4, col. 5, lines 13 – 42, 54 – 64.*

Applicant then further argues the combined system of references Jamieson et al. and Nurenberg et al., failed to disclose or suggest,

"a virtual private network construction system for a public data communication network comprising:

first relaying apparatuses with virtual relaying structure generating and multicasting control packets each of which is destined to a multicast address assigned to the virtual relaying structure and contains a unicast address specific to the virtual relaying structure. and

second relaying apparatuses with virtual relaying structure, which receives the control packets from the first relaying apparatuses with the multicast address as destined for the virtual relaying structure, establishing unicast virtual links using the unicast address in the control packets with the first relaying apparatuses which are transmitting sources of the control packets and returning reply packets to the first relaying apparatuses through the unicast virtual links,

whereby the virtual private network is constructed with the virtual relaying~ structures that are specific to a same multicast address in the first and the second relaying apparatuses, with the unicast virtual links established between all pairs of the virtual relaying structures and with virtual interfaces receiving packets from outside the public data communication network," as recited in claim 5. (Emphasis added).

Examiner respectfully disagrees.

Examiner contends the combined system of references Jamieson et al. and Nurenberg et al., disclose,

multicasting control packets each of which is destined to a multicast address assigned to the virtual relaying structure and contains a unicast address specific to the virtual relaying structure, and

receives the control packets from the first relaying apparatuses,  
establishing unicast virtual links using the unicast address in the control packets with the first relaying apparatuses which are transmitting sources of the control packets and returning reply packets to the first relaying apparatuses through the unicast virtual links,

whereby the virtual private network is constructed with the virtual relayin~ structures that are specific to a same multicast address in the first and the second relaying apparatuses, with the unicast virtual links established between all pairs of the virtual relaying structures and with virtual interfaces receiving packets from outside the public data communication network."

Examiner interpreted control packets as hello packets, link state advertisement and Address resolution protocol, *see Jamieson et al. col. 3, lines 55 – 67, col. 4, lines 1 – 6, see also col.5, lines 13 – 42..* Examiner interpreted the claimed subject matter "multicasting control packets each of which is destined to a multicast address assigned to the virtual relaying structure and contains a unicast address specific to the virtual relaying structure" as all PNADs of a VPN subnet may also be interconnected ....for sending multicasting datagrams,...the response packet can be unicast, otherwise it is sent on the multicast MAC LSP, *see Jamieson et al. col. 3, lines 55 – 67, col. 4, lines 1 – 6, see also col.5, lines 13 – 42,* and interpreted "receives the control packets from the first relaying apparatuses" as the incoming label will be viewed layer 3 as the MAC address, *see Jamieson et al, col. 5, lines 9 – 10, 36 - 42,* and interpreted "establishing unicast virtual links using the unicast address in the control packets with the first relaying apparatuses ... and returning reply packets to the first relaying apparatuses through the unicast virtual links" as the originating PNAD will receive the response ARP packet....., once the mapping for next hop IP address to MAC label is established..., *see Jamieson et al, col. 5, lines 36 – 52.*

Examiner further interpreted the claimed subject matters of “the virtual private network is constructed with the virtual relaying structures that are specific to a same multicast address in the first and the second relaying apparatuses” as all PNADs of a VPN subnet may also be interconnected using a bi-directional, multipoint-to-multipoint LSP. This could be used for sending multicast datagrams, *see Jamieson et al., Fig. 1, Fig. 3, col. 2, lines 31 – 45, col. 3, lines 55 – 67, col. 4, lines 1 – 4, col. 5, lines 13 – 42, 54 – 64.* and interpreted “with the unicast virtual links established between all pairs of the virtual relaying structures and with virtual interfaces receiving packets from outside the public data communication network” as each PNAD has a multipoint-to-point LSP directed to it. It is used by all other PNADs for unicast transmission;..to establish a mapping between the new label and the IP address of VSI of the PNAD at the other end of the multipoint-to point LSP, *see Jamieson et al. Fig. 1, Fig. 3, col. 2, lines 31 – 45, col. 3, lines 55 – 67, col. 4, lines 1 – 4, col. 5, lines 13 – 42, 54 – 64.*

Reference Jamieson et al. do not explicitly disclose the limitations of multicast address and unicast address. Reference Nurenberg et al. remedy Jamieson deficiencies by disclosing the multicast address and unicast address as well as unicast and multicast network structure.

### **Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Morgenstern et al. (US 6587467 B1).
- Delancey et al. (US 6937574 B1).

- Rao et al. (US 6674756 B1).
- Casey et al. (US 6205488 B1).
- Yamauchi (US 7272146 B2).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Lee whose telephone number is (571)272-3131. The examiner can normally be reached on Monday through Friday from 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew C Lee/  
Examiner, Art Unit 2419  
<3/10/2009::2Qy09>

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